

Rural Housing Service, USDA

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(vii) Supplemental and supporting structures for other rural electrification or telephone systems (including facilities such as headquarters and office buildings, storage facilities, and maintenance shops) when not eligible for RUS financing;

(viii) Natural gas distribution systems; and

(ix) Industrial park sites, but only to the extent of land acquisition and necessary site preparation, including access ways and utility extensions to and throughout the site. Funds may not be used in connection with industrial parks to finance on-site utility systems, or business and industrial buildings.

(2) "Otherwise improve" includes, but is not limited to, the following:

(i) The purchase of major equipment (such as solid waste collection trucks, telecommunication equipment, necessary maintenance equipment, fire service equipment, X-ray machines) which will in themselves provide an essential service to rural residents; and

(ii) The purchase of existing facilities when it is necessary either to improve or to prevent a loss of service.

(b) Construct or relocate public buildings, roads, bridges, fences, or utilities and to make other public improvements necessary to the successful operation or protection of facilities authorized in paragraph (a) of this section.

(c) Relocate private buildings, roads, bridges, fences, or utilities, and other private improvements necessary to the successful operation or protection of facilities authorized in paragraph (a) of this section.

(d) Pay the following expenses, but only when such expenses are a necessary part of a project to finance facilities authorized in paragraphs (a), (b), and (c) of this section:

(1) Reasonable fees and costs such as legal, engineering, architectural, fiscal advisory, recording, environmental impact analyses, archeological surveys and possible salvage or other mitigation measures, planning, establishing or acquiring rights.

(2) Costs of acquiring interest in land; rights, such as water rights, leases, permits, and rights-of-way; and other evidence of land or water control

necessary for development of the facility.

(3) Purchasing or renting equipment necessary to install, maintain, extend, protect, operate, or utilize facilities.

(4) Obligations for construction incurred before grant approval. Construction work should not be started and obligations for such work or materials should not be incurred before the grant is approved. However, if there are compelling reasons for proceeding with construction before grant approval, applicants may request Agency approval to pay such obligations. Such requests may be approved if the Agency determines that:

(i) Compelling reasons exist for incurring obligations before grant approval;

(ii) The obligations will be incurred for authorized grant purposes;

(iii) Contract documents have been approved by the Agency;

(iv) All environmental requirements applicable to the Agency and the applicant have been met; and

(v) The applicant has the legal authority to incur the obligations at the time proposed, and payment of the debts will remove any basis for any mechanic's, material, or other liens that may attach to the security property.

The Agency may authorize payment of such obligations at the time of grant closing. The Agency's authorization to pay such obligations, however, is on the condition that it is not committed to make the grant; it assumes no responsibility for any obligations incurred by the applicant; and the applicant must subsequently meet all grant approval requirements. The applicant's request and the Agency's authorization for paying such obligations shall be in writing.

§ 3570.63 Grant limitations.

(a) Grant funds may not be used to:

(1) Pay initial operating expenses or annual recurring costs, including purchases or rentals that are generally considered to be operating and maintenance expenses (unless a CF loan is part of the funding package);

(2) Construct or repair electric generating plants, electric transmission lines, or gas distribution lines to provide services for commercial sale;

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- (3) Refinance existing indebtedness;
 - (4) Pay interest;
 - (5) Pay for facilities located in nonrural areas, except as noted in § 3570.61(b)(1).
 - (6) Pay any costs of a project when the median household income of the population to be served by the proposed facility is above the higher of the poverty line or eligible percent (60, 70, 80, or 90) of the State nonmetropolitan median household income (see § 3570.63(b));
 - (7) Pay project costs when other loan funding for the project is not at reasonable rates and terms;
 - (8) Pay an amount greater than 75 percent of the cost to develop the facility;
 - (9) Pay costs to construct facilities to be used for commercial rental unless it is a minor part of the total facility;
 - (10) Construct facilities primarily for the purpose of housing State, Federal, or quasi-Federal agencies; and
 - (11) Pay for any purposes restricted by 7 CFR 1942.17(d)(2).
- (b) Grant assistance will be provided on a graduated scale with smaller communities with the lowest median household incomes being eligible for projects with a higher proportion of grant funds. Grant assistance is limited to the following percentages of eligible project costs:
- (1) 75 percent when the proposed project is:
 - (i) Located in a rural community having a population of 5,000 or less; and
 - (ii) The median household income of the population to be served by the proposed facility is below the higher of the poverty line or 60 percent of the State nonmetropolitan median household income.
 - (2) 55 percent when the proposed project is:
 - (i) Located in a rural community having a population of 12,000 or less; and
 - (ii) The median household income of the population to be served by the proposed facility is below the higher of the poverty line or 70 percent of the State nonmetropolitan median household income.
 - (3) 35 percent when the proposed project is:

- (i) Located in a rural community having a population of 20,000 or less; and
 - (ii) The median household income of the population to be served by the proposed facility is below the higher of the poverty line or 80 percent of the State nonmetropolitan median household income.
- (4) 15 percent when the proposed project is:
- (i) Located in a rural community having a population of 50,000 or less; and
 - (ii) The median household income of the population to be served by the proposed facility is below the higher of the poverty line or 90 percent of the State nonmetropolitan median household income.
- (5) 60 percent when the proposed project is:
- (i) Located in a rural community having a population of 20,000 or less; and
 - (ii) The median household income of the population to be served by the proposed facility is below the higher of the poverty line or 90 percent of the State non-metropolitan median household income. The 60 percent grants are only available to communities impacted by a disaster that has resulted in a loss of 60 percent of the community's population and is located in a rural community designated as a major disaster area by the President.
- (6) Grant assistance cannot exceed the higher of the applicable percentages contained in this section which the applicant is eligible to receive and may be further limited due to availability of funds or by the maximum grant assistance allowable determined in accordance with § 3570.66.

[64 FR 32388, June 17, 1999, as amended at 73 FR 14173, Mar. 17, 2008]

§ 3570.64 Applications determined ineligible.

If, at any time, an application is determined ineligible, the processing office will notify the applicant in writing of the reasons. The applicant will be advised that it may appeal the decision. (See 7 CFR part 11.)